

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1824 – SB 1848

March 18, 2016

SUMMARY OF ORIGINAL BILL: Requires the Department of Commerce and Insurance's Division of Consumer Affairs to develop and implement a plan to receive and disseminate reports of scams, schemes, swindles, and other frauds that target adults on their website and to report by October 15, 2016, on its progress to the Chairs of the Health Committee of the House of Representatives and Health and Welfare Committee of the Senate.

Adds home care organizations to entities that are required to have a criminal background check completed prior to employing any person who will be in a position that involves providing direct care to a resident or patient. Requires any person who applies for employment in a position that involves providing direct care to a resident or patient in such a facility to consent to providing past work and personal references, agree to the release of information to determine if an individual has been convicted of a criminal offense in the State of Tennessee, supply a fingerprint sample and submit to a criminal history records check, or a state and federal criminal history records check to be conducted by the Tennessee Bureau of Investigation, and release any information required for a criminal background investigation by a professional background screening organization or criminal background check service or registry.

Requires the Executive Director of the Commission on Aging and Disability (TCAD) to establish a working group led by the Commission and includes the Division of Adult Protective Services of the Department of Human Services, the Department of Health, the District Attorneys General Conference, members of local law enforcement, and other state departments and agencies may be needed. The working group is to draft and develop a field guide to provide law enforcement with the specific statutes and other resources related to assisting in the prevention, investigation, and prosecution of elder and vulnerable adult abuse.

Requires the Executive Director of TCAD to establish and lead a multidisciplinary collaborative coalition of state agencies and departments involved in the prevention, investigation, and prosecution of elder and vulnerable adult abuse, neglect, and exploitation. Requires the coalition to develop and undertake strategies to increase communication with the public and state agencies, propose educational outreach, and promote the sharing of existing resources and information.

Requires the Commissioner of the Department of Human Services to establish within the Department an adult protective services working group, tasked to examine and explore the procedures and resources used by other states to investigate all allegations of financial exploitation. Requires the Commissioner to report to the General Assembly by January 15, 2017, a plan to improve its efficiency and a report concerning the department's capacity to investigate financial exploitation involving nongovernmental funds.

Requires the District Attorneys General Conference (TDAGC) to review portions of the Tennessee Code Annotated related to prosecution of elder abuse, neglect, and exploitation and to report recommended changes by January 15, 2017.

Establishes the Tennessee Vulnerable Adult Coalition (TVAC) as an advisory entity. TVAC will be administratively attached to the TCAD and will bring public and private entities together to promote the collaboration necessary to prevent the abuse, neglect, and financial exploitation of elder and vulnerable adults.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue -- \$90,300/Recurring/TBI

Increase State Expenditures - \$4,300/One-Time/TBI
\$44,400/Recurring/TBI
\$56,600/Recurring/TennCare

Increase Federal Expenditures -- \$104,900/Recurring

SUMMARY OF AMENDMENT (013674): Deletes and replaces language in the bill such that the only substantive changes are: (1) removes nursing homes from the provisions of this Act and establishes that background checks for home care organizations can be performed by either TBI and FBI or a professional background screening organization, not by both as required by the original bill; (2) adds the requirement that any costs incurred by the TBI and the FBI in conducting the investigation of applicants is to be paid by the home care organization requesting such investigation and information in accordance with Tenn. Code Ann. § 38-6-109; and (3) requires services and facilities operated for the provision of mental health services, alcohol and drug abuse prevention or treatment, services of intellectual and developmental disabilities, and personal and support services to have a background check of all persons prior to employing any person whose responsibilities would include direct contact with or direct responsibility for service recipients, rather than within ten days of employment.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

NOT SIGNIFICANT

Assumptions for the bill as amended:

- Based on information provided by the Bureau of TennCare and the Department of Intellectual and Developmental Disabilities, criminal background checks are already

required for all direct care staff prior to employment; therefore, any fiscal impact would be not significant.

- Based on information provided by the TBI, any cost associated with the required criminal background checks can be accommodated within existing resources without an increased appropriation or reduced reversion.
- The TDAGC is tasked with reviewing the code related to the prosecution of elder abuse, neglect, and exploitation. This can be accomplished utilizing existing resources using electronic means without an increased appropriation or reduced reversion.
- The Division of Consumer Affairs is required to promote consumer education and currently holds an education fund in order to carry out this duty. The fund is comprised of monies from settlements obtained by the Division from violations of the Consumer Protection Act.
- The Division can develop and implement a plan to receive and disseminate reports of scams, schemes, swindles, and other frauds that target adults on their website within existing resources.
- TCAD is federally mandated to provide education and outreach in regards to elder abuse. Any fiscal impact incurred in establishing the working group or coalitions can be accomplished using existing resources.
- The Department of Health confirms any fiscal impact incurred from amending existing home care and hospice rules and training staff to inspect for required documentation can be accomplished within existing resources.
- Establishment of the adult protective services working group within the Department of Human Resources will not result in a significant fiscal impact to the Department. The group's duties can be accomplished utilizing existing resources of the Department, without an increased appropriation or reduced reversion.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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